

MARQUIS AURBACH COFFING

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

1 **Marquis Aurbach Coffing**
TERRY A. MOORE, ESQ.
2 Nevada Bar No. 7831
10001 Park Run Drive
3 Las Vegas, Nevada 89145
Telephone: (702) 382-0711
4 Facsimile: (702) 856-8968
Email: tmoore@maclaw.com

5 **Wilentz, Goldman & Spitzer**
6 ROBERT L. SELVERS, ESQ. (Pro Hac Vice Pending)
90 Woodbridge Center Drive
7 Suite 900, Box 10
Woodbridge, NJ 07095
8 Telephone: (732) 726-7477
Facsimile: (732) 726-6642
9 E-mail: rselvers@wilentz.com
Attorneys for Defendants Adam Daskivich and
10 Real Estate of Minnesota, Inc.

11 **UNITED STATES DISTRICT COURT**

12 **DISTRICT OF NEVADA**

13 UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,

Case No.: 2:10-cv-02166-PMP-LRL

14
15 Plaintiff,

16 vs.

17
18 MARCUS LUNA; NATHAN MONTGOMERY;
ADAM DASKIVICH; DAVID MURTHA; ST.
19 PAUL VENTURE FUND, LLC; MINNESOTA
VENTURE CAPITAL, INC.; REAL ESTATE
20 OF MINNESOTA, INC., and MATRIX
VENTURE CAPITAL, INC.,
21

22 Defendant.

23 **DEFENDANTS ADAM DASKIVICH AND REAL ESTATE OF MINNESOTA, INC.'S**
24 **ANSWER TO COMPLAINT AND JURY DEMAND**

25 Defendants Adam Daskivich and Real Estate of Minnesota, Inc. by way of Answer to the
26 Commission's Complaint, hereby state:

27 ///

28 ///

MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

SUMMARY

1. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph but deny any and all allegations of wrongful conduct.

2. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph but deny any and all allegations of wrongful conduct.

3. Defendants deny any and all allegations of wrongful conduct by them alleged in this Paragraph.

4. Defendants deny any and all allegations of wrongful conduct by them alleged in this Paragraph.

5. Defendants deny any and all allegations of wrongful conduct by them alleged in this Paragraph.

6. Defendants deny any and all allegations of wrongful conduct by them alleged in this Paragraph.

JURISDICTION AND VENUE

7. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves the Commission to its proofs.

8. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves the Commission to its proofs.

9. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves the Commission to its proofs.

10. Defendants deny any and all allegations of wrongful conduct by them alleged in this paragraph.

THE DEFENDANTS

11. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves the Commission to its proofs.

///

MARQUIS AURBACH COFFING

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

12. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves the Commission to its proofs.

13. Defendants admit the allegations in this paragraph.

14. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves the Commission to its proofs.

15. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves the Commission to its proofs.

16. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves the Commission to its proofs.

17. Defendants admit the allegations in this paragraph.

18. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves the Commission to its proofs.

THE COMPANY

19. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves the Commission to its proofs.

FACTS

20. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves the Commission to its proofs.

21. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves the Commission to its proofs.

22. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves the Commission to its proofs.

23. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves the Commission to its proofs.

24. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves the Commission to its proofs.

///

///

MARQUIS AURBACH COFFING

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

1 25. Defendants lack knowledge or information sufficient to form a belief as to the
2 truth of the allegations contained in this paragraph but deny any and all allegations of wrongful
3 conduct.

4 26. Defendants lack knowledge or information sufficient to form a belief as to the
5 truth of the allegations in this paragraph and leaves the Commission to its proofs.

6 27. Defendants lack knowledge or information sufficient to form a belief as to the
7 truth of the allegations in this paragraph and leaves the Commission to its proofs.

8 28. These Defendants deny the allegations contained in this paragraph and lack
9 knowledge or information sufficient to form a belief as to the truth of the allegations against the
10 other Defendants.

11 29. These Defendants deny the allegations contained in this paragraph and lack
12 knowledge or information sufficient to form a belief as to the truth of the allegations against the
13 other Defendants.

14 30. Defendants lack knowledge or information sufficient to form a belief as to the
15 truth of the allegations in this paragraph but deny any and all allegations of wrongful conduct.

16 31. Defendants lack knowledge or information sufficient to form a belief as to the
17 truth of the allegations in this paragraph but deny any and all allegations of wrongful conduct.

18 32. Defendants lack knowledge or information sufficient to form a belief as to the
19 truth of the allegations contained in this paragraph but deny any and all allegations of wrongful
20 conduct.

21 33. These Defendants deny the allegations contained in this paragraph and lack
22 knowledge or information sufficient to form a belief as to the truth of the allegations against the
23 other Defendants.

24 34. Defendants lack knowledge or information sufficient to form a belief as to the
25 truth of the allegations contained in this paragraph but deny any and all allegations of wrongful
26 conduct.

27 ///

28 ///

MARQUIS AURBACH COFFING

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

1 35. These Defendants deny the allegations contained in this paragraph and lack
2 knowledge or information sufficient to form a belief as to the truth of the allegations against the
3 other Defendants.

4 36. These Defendants deny the allegations contained in this paragraph and lack
5 knowledge or information sufficient to form a belief as to the truth of the allegations against the
6 other Defendants.

7 37. Defendants lack knowledge or information sufficient to form a belief as to the
8 truth of the allegations contained in this paragraph but deny any and all allegations of wrongful
9 conduct.

10 38. Defendants lack knowledge or information sufficient to form a belief as to the
11 truth of the allegations in this paragraph and leaves the Commission to its proofs.

12 39. Defendants lack knowledge or information sufficient to form a belief as to the
13 truth of the allegations in this paragraph and leaves the Commission to its proofs.

14 40. Defendants lack knowledge or information sufficient to form a belief as to the
15 truth of the allegations in this paragraph but deny any and all allegations of wrongful conduct.

16 41. These Defendants deny the allegations contained in this paragraph and lack
17 knowledge or information sufficient to form a belief as to the truth of the allegations against the
18 other Defendants.

19 42. Defendants lack knowledge or information sufficient to form a belief as to the
20 truth of the allegations in this paragraph and leaves the Commission to its proofs.

21 43. These Defendants deny the allegations contained in this paragraph and lack
22 knowledge or information sufficient to form a belief as to the truth of the allegations against the
23 other Defendants.

24 44. Defendants lack knowledge or information sufficient to form a belief as to the
25 truth of the allegations contained in this paragraph but deny any and all allegations of wrongful
26 conduct.

27 45. Defendants lack knowledge or information sufficient to form a belief as to the
28 truth of the allegations in this paragraph and leaves the Commission to its proofs.

54. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves the Commission to its proofs

COUNT ONE
Violations Of Sections 5(A) And 5(C) Of The Securities Act
(Against All Defendants)

55. Defendants repeat and reallege the Answers to the allegations contained in the foregoing paragraphs as if set forth herein at length.

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

///

MARQUIS AURBACH COFFING

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

67. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph as the allegations are not directed to these Defendants.

68. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph as the allegations are not directed to these Defendants.

COUNT FOUR
Violation Of Section 10(B) Of The Exchange Act And Rule 10b-5 Thereunder
(Against Defendant Luna)

69. Defendants repeat and reallege the answers to the allegations contained in the foregoing Paragraphs as if set forth herein at length.

70. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph as the allegations are not directed to these Defendants.

71. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph as the allegations are not directed to these Defendants.

72. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph as the allegations are not directed to these Defendants.

AFFIRMATIVE DEFENSES

Without assuming the burden of proof for such defenses that they would not otherwise have, Defendants, for their Affirmative defenses allege as follows:

FIRST AFFIRMATIVE DEFENSE

The Commission's Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The Commission's claims are barred, in whole or in part, by the doctrines of laches and estoppel.

THIRD AFFIRMATIVE DEFENSE

Defendants reasonably relied upon the advice of legal counsel.

FOURTH AFFIRMATIVE DEFENSE

Defendants acted in good faith at all material times and did not directly or indirectly induce or cause the acts constituting the alleged grounds for relief.

///

FIFTH AFFIRMATIVE DEFENSE

The Commission's claim for injunctive relief is barred because, *inter alia*, there has been no violation of the Securities Act or the Exchange Act, and because there is no reasonable likelihood that any violation will be repeated. The Commission's injunctive relief claim is further barred because the adverse effects of an injunction far outweigh any benefit from an injunction.

SIXTH AFFIRMATIVE DEFENSE

The Commission's claim for penalties is inequitable and barred because, *inter alia*, Defendants alleged violation was isolated and/or unintentional.

SEVENTH AFFIRMATIVE DEFENSE

The Commission's claim for disgorgement is inequitable and barred because, *inter alia*, Defendants did not received any ill-gotten profits, did not act unlawfully, acted in good faith and investors did not suffer from their alleged conduct.

EIGHTH AFFIRMATIVE DEFENSE

Pursuant to Rule 508 of Regulation D, the exemption from the requirements of Section 5 of the Securities Act of 1933 was not lost.

NINTH AFFIRMATIVE DEFENSE

The Commission's claim for penny stock bar is barred because, among other reasons, there has been no violation of the Securities Act or the Exchange Act and/or because Defendants' alleged conduct was inadvertent, isolated and undertaken in good faith.

RESERVATION OF RIGHT TO SUPPLEMENT

Defendants reserve their right to amend the Answer and to assert additional defenses and/or supplement, alter or change the Answer upon a disclosure of more definite facts by the Commission and upon completion of further discovery and investigation.

///

///

///

///

MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

PRAYER FOR RELIEF

WHEREFORE, Defendants respectfully requests the Court to enter an Order granting the following relief:

1. Entering Judgment in favor of Defendants and against the Commission on all alleged claims of relief;
2. Dismissing the Complaint with prejudice; and
3. Granting such further relief as the Court may deem equitable, just and necessary.

Dated this 7th day of March, 2011.

MARQUIS AURBACH COFFING

By /s/ Terry A. Moore
Terry A. Moore, Esq.
Nevada Bar No. 7831
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Defendants Adam Daskivich
and Real Estate of Minnesota, Inc.

Robert L. Selvers, Esq. (Pro Hac Vice
Pending)
WILENTZ, GOLDMAN & SPITZER
90 Woodbridge Center Drive
Suite 900, Box 10
Woodbridge, NJ 07095
Telephone: (732) 726-7477
Facsimile: (732) 726-6642
E-mail: rselvers@wilentz.com
Attorneys for Defendants Adam Daskivich
and Real Estate of Minnesota, Inc.

MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

DEMAND FOR TRIAL BY JURY

Defendants hereby demand trial by a jury as to all issues pursuant to FRCP 38(b).

Dated this 7th day of March, 2011.

MARQUIS AURBACH COFFING

By /s/ Terry A. Moore
Terry A. Moore, Esq.
Nevada Bar No. 7831
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Defendants Adam Daskivich
and Real Estate of Minnesota, Inc.

Robert L. Selvers, Esq. (Pro Hac Vice
Pending)
WILENTZ, GOLDMAN & SPITZER
90 Woodbridge Center Drive
Suite 900, Box 10
Woodbridge, NJ 07095
Telephone: (732) 726-7477
Facsimile: (732) 726-6642
E-mail: rselvers@wilentz.com
Attorneys for Defendants Adam Daskivich
and Real Estate of Minnesota, Inc.

MARQUIS AURBACH COFFING

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

CERTIFICATION BY COUNSEL TO BE ADMITTED PRO HAC VICE

Pursuant to Local Rules of Practice, the undersigned does hereby state that he will
comply with LR IA 10-2 within forty-five (45) days.

Dated this 7 day of March, 2011.

WILENTZ, GOLDMAN & SPITZER


Robert L. Selvers, Esq. (PHV Pending)
90 Woodbridge Center Drive

Suite 900, Box 10

Woodbridge, NJ 07095

Telephone: (732) 726-7477

Facsimile: (732) 726-6642

E-mail: rselvers@wilentz.com

Attorneys for Defendants Adam Daskivich
and Real Estate of Minnesota, Inc.

MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

CERTIFICATE OF MAILING

I hereby certify that on the 7th day of March, 2011, I authorized the electronic filing of the foregoing **DEFENDANTS ADAM DASKIVICH AND REAL ESTATE OF MINNESOTA, INC.'S ANSWER AND JURY DEMAND** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses denoted on the attached Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 7th day of March, 2011.

/s/ Terry A. Moore
Terry A. Moore, Esq.
Nevada Bar No. 7831
MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
Telephone: (702) 382-0711
Facsimile: (702) 856-8968

Mailing Information for a Case 2:10-cv-02166-PMP -LRL

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Michael Cabonargi**
cabonargimm@sec.gov
- **Harold P Gewerter**
harold@gewerterlaw.com
- **Blaine T Welsh**
Blaine.Welsh@usdoj.gov,sue.knight@usdoj.gov,eunice.jones@usdoj.gov,doriayn.olivarra@usdoj.gov,Mary.Booker@usdoj.gov
- **Andrea Wood**
woodar@sec.gov

Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)